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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 Maria Castro De Darr,

Case No. 2:24-cv-01051-CDS-DJA

7 Plaintiff,

**Order**

8 v.

9 Home Depot U.S.A., Inc., a Delaware  
10 corporation doing business as The Home  
11 Depot, et al.,

Defendants.

12 Before the Court is the parties' stipulated protective order. (ECF No. 23). The parties  
13 request that the Court enter a protective order to govern their exchange of Home Depot's  
14 Operating Procedures and Safety Training Videotapes. However, the parties fail to state the  
15 governing standard for filing documents under seal with the Court. This order reminds counsel  
16 that there is a presumption of public access to judicial files and records. A party seeking to file a  
17 confidential document under seal must file a motion to seal and must comply with the Ninth  
18 Circuit's directives in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006)  
19 and *Center for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016).

20 **IT IS THEREFORE ORDERED** that the parties' stipulated protective order (ECF No.  
21 23) is **granted subject to the following modifications:**

- 22 • The Court modifies the following sentence in the parties' stipulation as follows:
- 23 "Home Depot's Operating Procedures and the Safety Training Videotapes shall be
- 24 treated confidential and ~~the parties shall not be utilized~~, ~~incorporated~~, or otherwise
- 25 ~~attached~~ Home Depot's Operating Procedures and the Safety Training Videotapes
- 26 to filings in this matter unless ~~sealed by the Court~~ the party seeking to utilize,
- 27 ~~incorporate, or otherwise attach Home Depot's Operating Procedures and the~~
- 28 ~~Safety Training Videotapes also moves to seal those items.~~

- 1           • The Court has adopted electronic filing procedures. Attorneys must file  
2 documents under seal using the Court’s electronic filing procedures. *See* Local  
3 Rule IA 10-5. Papers filed with the Court under seal must be accompanied with a  
4 concurrently-filed motion for leave to file those documents under seal. *See* Local  
5 Rule IA 10-5(a).
- 6           • The Court has approved the instant protective order to facilitate discovery  
7 exchanges, but there has been no showing, and the Court has not found, that any  
8 specific documents are secret or confidential. The parties have not provided  
9 specific facts supported by declarations or concrete examples to establish that a  
10 protective order is required to protect any specific trade secret or other confidential  
11 information pursuant to Rule 26(c) or that disclosure would cause an identifiable  
12 and significant harm.
- 13           • All motions to seal shall address the standard articulated in *Ctr. for Auto Safety*  
14 and explain why that standard has been met. 809 F.3d at 1097.
- 15           • Specifically, a party seeking to seal judicial records bears the burden of meeting  
16 the “compelling reasons” standard, as previously articulated in *Kamakana*. 447  
17 F.3d 1172. Under the compelling reasons standard, “a court may seal records only  
18 when it finds ‘a compelling reason and articulate[s] the factual basis for its ruling,  
19 without relying on hypothesis or conjecture.’” *Ctr. for Auto Safety*, 809 F.3d at  
20 1097. (quoting *Kamakana*, 447 F.3d at 1179). “The court must then  
21 ‘conscientiously balance[ ] the competing interests of the public and the party who  
22 seeks to keep certain judicial records secret.’” *Ctr. for Auto Safety*, 809 F.3d at  
23 1097.
- 24           • There is an exception to the compelling reasons standard where a party may satisfy  
25 the less exacting “good cause” standard for sealed materials attached to a  
26 discovery motion unrelated to the merits of the case. *Id.* “The good cause  
27 language comes from Rule 26(c)(1), which governs the issuance of protective  
28 orders in the discovery process: ‘The court may, for good cause, issue an order to

1 protect a party or person from annoyance, embarrassment, oppression, or undue  
2 burden or expense.” *Id.* (citing Fed.R.Civ.P. 26(c)). “For good cause to exist, the  
3 party seeking protection bears the burden of showing specific prejudice or harm  
4 will result if no protective order is granted.” *Phillips v. General Motors*, 307 F.3d  
5 1206, 1210-11 (9th Cir. 2002).

- 6 • The labels of “dispositive” and “nondispositive” will not be the determinative  
7 factor for deciding which test to apply because the focal consideration is “whether  
8 the motion is more than tangentially related to the merits of a case.” *Ctr. for Auto*  
9 *Safety*, 809 F.3d at 1101.
- 10 • The fact that the Court has entered the instant stipulated protective order and that a  
11 party has designated a document as confidential pursuant to that protective order  
12 does not, standing alone, establish sufficient grounds to seal a filed document. *See*  
13 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1133 (9th Cir. 2003); *see*  
14 *also Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992). If  
15 the sole ground for a motion to seal is that the opposing party (or non-party) has  
16 designated a document as confidential, the designator shall file (within seven days  
17 of the filing of the motion to seal) either (1) a declaration establishing sufficient  
18 justification for sealing each document at issue or (2) a notice of withdrawal of the  
19 designation(s) and consent to unsealing. If neither filing is made, the Court may  
20 order the document(s) unsealed without further notice.
- 21 • To the extent any aspect of the stipulated protective order may conflict with this  
22 order or Local Rule IA 10-5, that aspect of the stipulated protective order is hereby  
23 superseded with this order.

24 IT IS SO ORDERED.

25 DATED: June 6, 2025



26  
27 DANIEL J. ALBREGTS  
28 UNITED STATES MAGISTRATE JUDGE